

for murder as two oxen and two slaves; for adultery, two oxen, a pig, and a slave.) Today a man who has committed adultery sometimes takes the woman and all children under three years of age, but this is for the husband to decide. An adulterer with one of the chief's wives was castrated but not killed, and the castration might be compounded for a high fine, while he, his sisters, and the sons of his sisters would become slaves of the chief. (1) Namby states finally that "Criminal law did not distinguish between responsibility for intentional and unintentional offences." (2)

There is no information regarding the kinds of cases tried or the punishments given in the courts of village headmen or sub-chiefs today.

INHERITANCE

It has been noted above that moveable property is inherited in the maternal line, land in the paternal line. (3) The eldest brother of the deceased's mother has the first claim and is responsible for settling disputes. He may distribute the property to the mother of the deceased, the maternal grandfather, or to a brother of the deceased, but is not compelled to do this. Women never inherit cattle or land, although the sisters of a deceased woman usually receive most of her household utensils (the rest belong to her husband). A widow goes to the house of (? marriage) the eldest brother of the deceased or her own maternal uncle, or she may return to her father's village. Apparently her children accompany her, although one would expect them to go to her brother. (4)

DIVORCE

Divorce appears to be infrequent; grounds for divorce are many, but difficulties are often overcome by a compromise between the two kin groups concerned. Causes for dissatisfaction on the part of a husband include his wife's incompetence, dishonesty, physical weakness, or infidelity (in the last case today a fine from the adulterer is usually accepted and the marriage continues). Barrenness is not a ground for divorce; usually the husband takes a second wife, but the first maintains her position as head wife. Sterility in the male is sometimes suspected, in which case the husband may try another girl, with his wife's consent, or the woman another man. A woman may divorce a man if he is impotent (not sterile), or if he ill-treats her, but not because he is unfaithful. If for any of these reasons the woman returns to her family, the latter are expected to return the marriage payment, although they may wait until another suitor appears who will pay the deserted husband. Whether the initiative in divorce is taken by the woman or the man, the marriage is not annulled until a renunciatory ceremony has been carried out by the husband, the wife, and the wife's father, in the presence of the village headman. The husband receives from his wife's father a roll of tobacco and a pig, and then places leaves (5) and palm oil on his wife's back; he then slaps his wife's back saying "It is finished".

(1) Namby, op.cit., p. 203.

(2) Loc.cit.

(3) See above, p. 18, and Childs, 1949, p. 44.

(4) Namby, (2) 1934, p. 199.

(5) The leaf used is of the *api* tree; the same leaf is tied to the pole of the cradle of a new village, as a sign of divorce from the old site. (Childs, 1949, p. 30; this is the only context in which Childs mentions divorce.)

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finer were in their hands. If he murdered one of the royal family 682
he was killed after he had paid the fine." The punishment of a woman [562]
who has committed a murder is the same as that for a man.

Ombalanga is the name given to trial by poison ordeal. The 695
medicine-man holds out both his hands, in each of which there is a
potato; only one of which is poisoned. The accused man says, "If I
have done this thing, this potato will be poison for me. If I have
not done this thing, this potato will be food for me." The complainant
says, "If this is not the man who poisoned my brother, this potato
will be poison for me." They sit in front of the medicine-man, and
each must take the potato in the hand opposite to him. The poison
makes a man very sick. His mouth swells so that he cannot speak.

When a woman was accused of murder her son or her brother [562]
would take her place in the poison ordeal. A boy of fifteen years of
age would have the same treatment as a man. "I don't think a girl
would kill anybody. I never heard about it," said Ngonga. It appears
that resort was made to a medicine-man when the accused was thought
to have committed murder by poison or magic. If the murderer used
weapons, the accuser, who was usually a relative, was entitled to kill
him with the kind of weapon used for the crime.

The penalties for adultery were the same as those for murder. 684
The woman appears to have escaped punishment, except that "her
husband would not have her any more." The male adulterer had
to pay the husband; if he could not pay or escape, the husband had
the right to kill him. In the old days the price for adultery was two
oxen, a pig, and a slave. At the present day a man who has com-
mitted adultery and made payment, possibly takes the woman and
all children under three years of age. The husband has the right to
decide whether the adulterer has the privilege of taking the woman
and her children. An adulterer with one of the king's wives was
castrated but not killed. He might, instead of mutilation, pay a very [567]
high price, while he himself along with his sisters and the sons of
his sisters, would become slaves of the king. If a man could not pay,
he might be sold as a slave in order to provide money for the fine.
Criminal law did not distinguish between responsibility for inten- [671]
tional and unintentional offences.

It is very difficult to say how much of the old law survives. One 681
feels that underneath the ostensible Portuguese rule there is an active 177
native life that is resisting subjugation.

Only two years ago Ngonga paid an ox to prevent one of his female 686
relatives from being pawned. Within the past ten years Ngonga has

RELIGION

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Nevertheless, the idea of crime is well developed, and there are many actions which are punishable because they contravene the laws of the tribe. Adultery is a crime on a par with theft; but adultery is not a sin. Suku, the supreme being, issues no commands. Ancestral spirits are concerned only with sacrifice and homage to themselves. There is no theory of punishment or reward in a future life according to conduct on earth.

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Perhaps *ekundu* is the only word which could express sin. An Ocimbundu would say that murder is the chief *ekundu*. "*Ekundu* is to make anything have a bad time." To send a stranger along the wrong path is *ekundu*. It would be *ekundu* to throw an animal on the fire. It is *ekundu* if a man is guilty of fornication with his wife's sister. Such an act is said to be *ekundu* only if the wife's sister is visiting the house of the culprit. The male defaulter is regarded as blameless, but the people of the village from which the wife's sister came would be expected to pay the wronged wife. Sexual offences against young children are very serious. In fact the death penalty or banishment would be inflicted, and such offences are given by the Ovimbundu as examples of *ekundu*.

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This subject of moral responsibility leads naturally into the question of laws and penalties. There are among the Ovimbundu well-defined moral codes and clearly formulated tribal laws which have been described in chapter VI.

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FUNERAL RITES

COMMONERS

In the village of Cilenma in the district of Elende I witnessed the funeral rites of a boy aged twelve years. When a few hundred yards from the village, I heard sounds of drumming coming from a secluded place in the tall grass. On reaching the clearing four drummers were seen, each of whom held a tubular drum between his legs; these drums were of different lengths. The man on the left of the drumming squad played with an up and down movement of his left hand only, to provide the bass tone. Other drummers played with the palms and fingers of both hands. Thirty feet from the drummers stood a group of women who always started the rhythm for the drums by clapping their hands, and the hand-clapping continued as an accompaniment for the drums.

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Near-by, men were seated on the ground, while a large number of women walked about or sat on the ground chatting and smoking their pipes. The general impression was not one of solemnity.

SOCIAL CONTROL

do not know how Kafelo and Lusame came to hear of the case). 627
 In practice, their role was that of any other spectator in trying to bring about a settlement, although a chief has, as was noted, the right to a commission on any indemnification. The right of spectators to intervene is not based on any particular relationship to those involved nor on any reputation for wisdom. There is in fact no organized routine for determining who may and who must turn up and who may and who must speak. Spectators and speakers are simply members of the neighbourhood community, some related to Sapapula, some simply fellow-villagers, and it is natural that in present Umbundu society, lacking clearly-defined social groups, the crowd that assembles on such an occasion should look like a chance gathering. Its lack of recognised procedure, of accepted leadership, and of specific criteria of recruitment are all typical of the neighbourhood community among the contemporary Ovimbundu. 571

Despite the 'unorganized' character of this gathering, there exists evidently a set of generally accepted symbolic values, 627 which are accepted by Christian and pagan, by young and old. 183 Thus Nahoka claimed as evidence that she had not committed adultery her meal with Kapapelo's wife, and the latter in turn offered as evidence that adultery had been committed a statement that her husband had made a gift of soap to Nahoka. 137 These actions provide presumptive evidence of innocence or guilt since an adulterer or adulteress may not eat under apparently mystical sanctions with the spouse of the person with whom he or she has committed adultery, and the giving of gifts by a man to a woman implies a sexual relationship. These actions were presumably recognized as convincing evidence in the days when there existed a formal court system, and continue to be recognized as such at the present day.

The nature of contemporary social relations, as being the 578 end-product of a series of acts between individuals rather than 571 as the content of jural norms defined by status, is also revealed in 671 the dispute, particularly in the episode at Justino's. Sapapula does not complain that Kapapelo had not behaved as a villager should to his headman, but that he had not been grateful for having been given land. Kapapelo's complaint that Saviel, Sapapula's sister's son, had attempted to seduce his wife was,